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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JAMES W. TAYLOR, JR.

Appeal 2014-008160
Application 12/434,609
Technology Center 3700

Before: LINDA E. HORNER, THOMAS F. SMEGAL, and GORDON D. KINDER, *Administrative Patent Judges*.

KINDER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellant[1] appeals under 35 U.S.C. § 134 the Examiner's final rejection of claims 19–23, 25–32, 34–38, 40, 43 and 44. Br. 6. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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[1] Appellant identifies the real party in interest as the inventor, James W. Taylor, Jr.

CLAIMED SUBJECT MATTER

The claims are directed to socket insert adapter. Claim 19, reproduced below, illustrates the claimed subject matter:

> 19. A mechanical arrangement for electrically, hydraulically, or pneumatically tightening, loosening or removing nuts and bolts of various sizes, the mechanical arrangement comprising:
>
> a socket driver configured to receive and to be rotatively driven by a torque force from at least one of electrical, hydraulic, or pneumatic means;
>
> a plurality of hollow-shaped socket insert adapters that are configured to be rotatively driven by the socket driver, and to receive the electrical, hydraulic, or pneumatic torque force via the socket driver, for tightening, loosening, or removing the nuts and bolts of various sizes, a given one hollow-shaped socket insert adapter of the plurality of hollow-shaped socket insert adapters including at least:
>
> an outer configuration having a shape and size to conform to and to fit into a cavity of a socket driver body of the socket driver;
>
> and an inner configuration that:
>
> has a shape and size to conform to and to fit on a head portion of a given nut or bolt to be driven and wherein the shape of the inner configuration is a closed hollow shape; and
>
> includes a plurality of inner flat walls and a plurality of rounded inner comers, each inner flat wall of the plurality of inner flat walls being coupled with another inner flat wall of the plurality of inner flat walls by a one of the plurality of rounded inner comers, the inner configuration being shaped to allow the one or more flat walls of the inner configuration to contact and engage, and the one or more rounded inner corners to avoid contacting and engaging, the head portion of the given nut or bolt to be driven; and
>
> wherein the plurality of inner flat walls and the plurality of rounded inner corners are configured to increase the ability of the plurality of hollow-shaped socket insert adapters to receive the electrical, hydraulic, or pneumatic torque force via

the socket driver and to transmit the torque force to the given nut or bolt to be driven.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Cronan	US 2,376,575	May 22, 1945
Evans	US 3,802,303	April 9, 1974
Rogers	US 4,836,067	June 6, 1989
Dobson	US 6,354,175 B1	Mar. 12, 2002
Cheng	US 7,028,589 B1	April 18, 2006
Abel	US 7,287,449 B2	Oct. 30, 2007

REJECTIONS

The Examiner made the following rejections:

1. Claim 40 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the inventor regards as his invention.

2. Claims 19–23, 25–32, 34–38, 40, 43, and 44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dobson, Cronan, and Abel.

3. Claims 19–23, 25–32, 34–38, 40, 43 and 44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dobson, Cronan, Abel, and Evans.

4. Claims 23 and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dobson, Cronan, Abel, Evans, and Rogers.

5. Claims 19–23, 25–32, 34–38, 40, 43, and 44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Evans, Dobson, and Abel.

6. Claims 23 and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Evans, Dobson, Abel, and Rogers.

7. Claim 28 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Evans, Dobson, Abel, and Cronan.

OPINION

Claims 19 and 29 are the only independent claims on appeal. We address the issues presented on appeal in the order in which they appear in Appellant's Brief.

1. Whether claim 19 is patentable over Dobson in view of Cronan and evidentiary reference Abel

Appellant challenges the rejection of claim 19 as obvious in view of the principal reference to Dobson, asserting that Dobson shows "a hand tool, not a socket driver configured for being driven by power means." Br. 9. In support, Appellant relies on the declaration of Dr. Taha (filed May 25, 2011) and a declaration of Mr. Steven Self (filed May 25, 2011). *Id.*

The Examiner found that Dobson meets most of the limitations of claim 19 (Final Act. 3; Ans. 3), reproducing Dobson's Figure 3 showing the socket end of Dobson's tool 10 with nut 16 inside so as to be driven by tool 10. *Id.* This means that the hexagonal shank, the left portion as viewed in Figure 2, is the end through which torque is provided to tool 10 in order to turn nut 16. As the Examiner noted, the left end of tool 10 shown in Figure 2 of Dobson is identical to the corresponding end of the tool shown in Abel.

Final Act. 5. The shank portion, according to Abel, "can be fitted into a standard chuck of an electric screwdriver or the like." Abel 6:32–33. As further support for the Examiner's finding, Figures 1–3 of Cheng show a similar chuck of a power tool engaged with an identical hexagonal shank. Final Act. 12. We find that the Examiner's determination that Dobson's tool is configured to receive and be rotatively driven by a torque force from at least one of electrical, hydraulic, or pneumatic means is supported by a preponderance of the evidence. For the reasons that follow, the evidence submitted by Appellant does not persuade us otherwise.

Dr. Taha's declaration is not convincing. Dr. Taha states in a conclusory fashion that "Dobson is a low torque hand driven or operated device." Taha Dec. 3. Dr. Taha does not explain how he came to that conclusion or what structural features, if any, support his conclusion. Dr. Taha identifies no structural feature which would prevent the tool of Dobson from being "configured to receive and to be rotatively driven by a torque force from at least one of electrical, hydraulic, or pneumatic means" as required by claim 19. Br. 29 (Claims App.). Nor does Dr. Taha address the limitation in claim 19 that the claimed socket driver is configured to be driven by "a torque force." Claim 19 does not include a limitation that the torque force be greater than a specified torque force. Indeed, claim 19 does not specify how much torque the socket driver is configured to receive, and one of ordinary skill in the art would recognize that electrical, hydraulic, and pneumatic tools could provide a range of torques from a little torque to a large torque.

The declaration of Steven Self is not persuasive at least because it is not directed to any particular language in claim 19. In particular, Mr. Self

identifies no structural feature which would prevent the tool of Dobson from being "configured to receive and to be rotatively driven by a torque force from at least one of electrical, hydraulic, or pneumatic means" as required by claim 19. Br. 29 (Claims App.). Nor does Mr. Self address the limitation in claim 19 that the claimed socket driver is configured to be driven by "a torque force."

The declarations of Mr. Self and Dr. Taha do not persuade us that Dobson's tool 10 is not "configured to receive and to be rotatively driven by a torque force from at least one of electrical, hydraulic, or pneumatic means" as required by claim 19.

Appellant next contends that the Examiner must be relying on inherency or personal knowledge in finding that Dobson is configured to be driven by power means. Br. 9–10. However, contrary to the Appellant's contention, the Examiner relies on two evidentiary references, Abel and Cheng, which show and describe a hexagonal shank with an annular recess identical to Dobson's and cooperation of such a shank with a quick release chuck in a power tool or hand tool driver. Final Act. 5, 10. Appellant's own declaration about which end of Dobson receives torque (whether from a hand operated device or a power device) is not credible in light of Abel and Cheng. Br. 11–12 (citing Second Declaration of James W. Taylor, Jr., paras. 10–11 (filed May 18, 2012)). The Examiner found Appellant's opinion "erroneous" (Final Act. 12), and we agree.

Indeed, Appellant admits later in his brief that the end of Dobson's tool having central bore 14 receives hex head 16. Br. 25:3–4 (arguing that "Fig[ure] 3 of Dobson . . . shows hex head 16 . . . clearly . . . disposed within central bore 14"). Dobson describes his socket 10 as including "a wall **12**

which defines a central bore **14**. The central bore **14** has a polygonal shape, preferably a hexagon, to receive fastener hex heads **16**." Dobson 2:21–23. Therefore Dobson's hexagonal shank must be the part that receives torque, and the central bore is the part that engages the work piece. Accordingly, we find that the socket of Dobson (the right hand portion shown in Figure 2) engages the work piece (fastener hex heads), and the hexagonal shank (the left hand portion shown in Figure 2) is engaged by the tool which causes the socket to rotate. In light of these findings by the Examiner, with which we agree, and the explicit teachings of the cited references, we do not agree with Appellant's characterization that the Examiner is taking official notice or relying on personal knowledge. *Cf.* Br. 13.

The Examiner found that Dobson, when viewed in conjunction with Abel and Cheng, shows a socket driver "configured to receive and to be rotatively driven by a torque force from at least one of electrical, hydraulic or pneumatic means" as required by claim 19. Appellant has not persuaded us this finding was in error. Therefore, we sustain the rejection of claim 19 as unpatentable over Dobson, Cronan, and evidentiary reference Abel.

2. Whether Claim 19 is patentable over Dobson in view of Cronan and Evans and evidentiary reference Abel

Appellant argues that that Evans fails to recite or suggest at least "each inner flat wall of the plurality of inner flat walls being coupled with another inner flat wall of the plurality of inner flat walls by a one of the plurality of rounded inner corners," as recited in claim 19. Br. 14. This argument is not persuasive because the Examiner relied on Dobson for teaching rounded corners (Final Act. 6) and Evans for teaching socket inserts nested within each other with corners corresponding to that of the

socket. *Id.* Appellant's argument thus does not address the findings of the Examiner that formed the basis of the rejection. In addition, claim 19 does not require that all inner flat walls be coupled with another flat wall by a rounded corner. Rather, claim 19 requires only a plurality of flat walls (two or more), each of which is coupled with another by one of a plurality of rounded corners, and Evans shows two flat walls coupled to each other by a rounded corner at least in Figures 1 and 2.

Next, Appellant asserts that Evans fails to recite or suggest at least, "wherein the plurality of inner flat walls and the plurality of rounded inner corners increase the ability of the plurality of hollow shaped socket insert adapters to receive the electrical, hydraulic, or pneumatic torque force via the socket driver and to transmit the torque force to the given nut or bolt to be driven," as recited by claim 19. Br. 14–15. Specifically, Appellant argues that Evans does not discuss using arcuate recesses to increase the ability of the Evans wrench to receive high torque. Br. 15. This argument does not address the combination found by the Examiner to render claim 19 obvious. The Examiner found that Dobson discloses rounded inner corners for relieving stress (and thus increasing the transmissible torque) (*see, e.g.*, Dobson, col. 1, ll. 28–37), and the only relied-on teaching from Evans is to provide nested inserts with rounded corners to match the socket driver. Final Act. 4; Ans. 14. Appellant's argument fails to address the Examiner's combination and so does not persuade us the Examiner erred.

Appellant also alleges there is no motivation to modify Dobson in light of Evans as the Examiner found would have been obvious. Br. 15. There is no argument in the Brief supporting this allegation, and we do not address it. *See Ex Parte Frye*, 94 USPQ2d 1072, 1075–76 (BPAI 2010)

(precedential) ("[i]f an appellant fails to present arguments on a particular issue . . . the Board will not, as a general matter, unilaterally review those uncontested aspects of the rejection").

Accordingly, we sustain the rejection of claim 19 as unpatentable over Dobson, Cronan, Abel, and Evans.

3. Whether Claim 19 is patentable over Evans in view of Dobson and evidentiary reference Abel

In response to the rejection of claim 19 over Evans, Dobson, and Abel, Appellant first argues that Dobson does not show a socket driver configured to be driven by a power tool. Br. 15. We have considered this argument above and find it not persuasive.

Next, Appellant argues that Figure 5 of Evans does not show inserts with rounded inner corners (Br. 16) and that modifying Evans would defeat Evans' ability to use his wrench in difficult to reach places. Br. 17. The Examiner responds that "providing rounded corners does no[t] eliminate the gripping teeth 78, only the corners would be rounded to relieve stress but the apex of flat walls would still define teeth." Ans. 15. In view of the Examiner's Answer, we are not persuaded that providing rounded corners to relieve stress would defeat the function or advantages of Evans' tool.

Appellant argues further that providing rounded corners is an adaptation for high torque applications and that Evans does not have a goal of high torque applications. Br. 17. In response, the Examiner finds that "the tool of Evens [sic], whether or not intended for high torque[,] would be improved by Dobson in preventing marring the work piece, which may occur with soft work pieces (made of brass) even in low torque transfer." Ans. 15–16. Moreover, claim 19 merely recites that the walls and rounded

inner corners increase the torque transmitting ability of the tool set, and does not require any particular level of torque. Appellant's declaration that the inserts of Evans are not for high torque applications is not persuasive because there is not claim limitation that defines or requires a high level of torque. Accordingly, we are not persuaded that the Examiner erred in rejecting claim 19 as obvious over Evans in view of Dobson and Abel. Therefore, we sustain the rejection of claim 19 as unpatentable over Evans, Dobson, and Abel.

4. Whether claim 29 is patentable for same reasons as claim 19

Appellant argues that claim 29 is patentable for the same reasons as argued in connection with claim 19. Br. 18. We have not been persuaded of any error in the rejection of claim 19, and likewise find none in the rejection of claim 29 based on the arguments presented in connection with claim 19. In particular, we note that claim 29, like claim 19, does not recite any claim limitation that defines or requires a high level of torque.[2] In view of the foregoing, we sustain each of the rejections under 35 U.S.C. § 103(a) of independent claim 29.

5. Whether dependent claims 20–23, 25–28, 30–32, 34–38, 40, and 43–44 are patentable at least because of dependency from one of claims 19 or 29

Appellant argues that the dependent claims are patentable for the same reasons that the claims from which they depend are patentable. As we find

[2] Appellant refers to claim 40 on page 19 of the Appeal Brief in the section addressing claim 29. We understand this reference to claim 40 to be a typographical error.

no error in Examiner's rejection of claims 19 and 29 (the only independent claims), we likewise find no error in this basis for rejecting the dependent claims. Accordingly, we sustain each of the rejections under 35 U.S.C. § 103(a) of dependent claims 20–23, 25–28, 30–32, and 34–38. We further address below additional arguments directed to the separate patentability of dependent claims 40, 43, and 44.

Appellant argues that Rogers, cited in two additional grounds of rejection against claims 23 and 32, does not cure the alleged defects in the rejection of claims 19 and 29, respectively, from which these two claims depend. Br. 19. As we find no error in the rejection of claims 19 and 29, we do not find the argument that claims 23 and 32 are patentable persuasive. Therefore, we sustain the two additional grounds of rejection under 35 U.S.C. § 103(a) of dependent claims 23 and 32 based on Dobson, Cronan, Abel, Evans, and Rogers and separately based on Evans, Dobson, Abel, and Rogers.

Appellant makes the argument that claim 28 is patentable for the same reasons as claim 29 [sic] from which it depends. Br. 19. Whether Appellant meant that claim 28 depends from 29 (which it does not) or from claim 19 (which it does), we have been shown no error in the rejection of claim 28 for the same reasons we found no error in the rejection of the claim from which it depends. Therefore, we sustain the rejection of claim 28 as unpatentable over Evans, Dobson, Abel, and Cronan.

6. Whether claim 40 is indefinite

Claim 40 depends from claim 19 and adds that "the electrical, hydraulic or pneumatic torque force is greater than a torque force that can be applied manually by a human being." Br. 34 (Claims App.). The Examiner rejects this claim under 35 U.S.C. § 112, second paragraph, because "[t]he torque that can be applied by human being is not defined or clearly described in the specification as originally filed to set a closed boundary to what defines or encompasses said torque force of said electric, hydraulic or pneumatic means and since different human beings can apply different torque forces." Final Act. 2.

Appellant does not contend that the Specification contains any disclosure relating to the strength of human beings or the torque force human beings can apply. Instead Appellant contends that one of ordinary skill in the art would know the limits of human strength. Br. 21. Importantly, Appellant argues as if the claim limitation read: "greater than a torque force that can be applied manually **by the strongest** human being." Instead, the limitation is: "greater than a torque force that can be applied manually by **a** human being", a point made by the Examiner. Final Act. 2, (citing Br. 34 (Claims App.) (emphasis added)); *see also* Ans. 17. Appellant's argument is thus not commensurate in scope with the claim and so is not persuasive.

Appellant relies on the Declaration of Dr. Taha that ratchet box wrenches (such as that disclosed in Cronan) are designed for low or mid-range torque values, i.e. from 8 ft./lbs. to 432 ft./lbs. Br. 21 (citing Taha Dec., pp. 5–6). Dr. Taha opines that "[h]uman arm/hand strength in hand tool usage will be of low torque limits. That is, roughly in the range of 200

ft[.]/lbs. and less. In most cases, hand wrenches are designed to operate with human force inputs of 100 ft[.]/lbs[.] or less." Taha Dec., p. 3, para. 3.a. Appellant likens this case to *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576 (Fed. Cir. 1986), where the court found the challenged claim to be "as accurate as the subject matter permits since automobiles are of different sizes." Here, Appellant cannot meet the *Orthokinetics* test, because his own declarations assert that the upper limit of human strength in a hand tool application is less than 200 ft./lbs. Br. 21. Thus, the subject matter admitted of more precise claiming, but such claims are not pending in this appeal.[3]

For these reasons, Appellant has not demonstrated error in the rejection of claim 40 as being indefinite and we sustain the rejection of claim 40 under 35 U.S.C. § 112, second paragraph.

7. Whether claim 40 is independently patentable over Dobson in view of Cronan and/or Evans and evidentiary reference Abel

Appellant first urges error in that claim 40 was not singled out for rejection. Br. 21. The Examiner replies that claim 40 was included in the numerous rejections of claim 19, from which it depends. Ans. 18. We are not persuaded of Examiner error given the explicit reference to claim 40 in the Final Action in at least six different places. Final Act. 2, 3, 5, 6, 7, and 9.

[3] Dr. Taha's declaration also fails to address the fundamental mechanics of applying torque with a wrench: regardless of the strength of the human operator, the resulting torque is in direct proportion to the length of the wrench. .

Beyond the general assertion of patentability of claim 40 because its parent claim, claim 19, is asserted to be patentable, Appellant has not challenged the rejection of claim 40 over Dobson in view of Cronan and evidentiary reference Abel found in the Final Action, page 3. Nor has appellant challenged the rejection of claim 40 under Dobson in view of Cronan, Evans, and evidentiary reference Abel found in the Final Action on page 6. For the reasons discussed above, we have found no error in the Examiner's rejection of claim 19 in view of these references and for the same reasons find no error in the rejection of claim 40 over these references, and we sustain the rejections of claim 40 under 35 U.S.C. § 103(a) as unpatentable over Dobson, Cronan, and Abel and over Dobson, Cronan, Evans, and Abel.

8. Whether claim 40 is independently patentable over Evans in view of Dobson and evidentiary reference Abel

Appellant next urges error in rejecting claim 40 over Evans in view of Dobson because Evans does not suggest a torque force greater than can be applied manually by a human being. Br. 22. Regardless of the breath of claim 40, we find no error because Evans was not relied upon for such a teaching. Dobson was relied upon for teaching a "nut setter that is capable of being driven by an electric, hydraulic or pneumatic means." Final Act. 8. This finding is without limitation as to the applied torque and therefore includes electric, hydraulic, or pneumatic instruments that are able to apply torque greater or less than a given human being may be able to do. Final Act. 18. Accordingly, the alleged failure of Evans to disclose a tool configured to receive and be rotatively driven by a torque force greater than

a torque force that can be applied manually by a human being does not address the Examiner's rejection of claim 40 which is based on finding the Dobson teaches a tool configured to be driven either by hand or by power means. Accordingly, we sustain the rejection of claim 40 under 35 U.S.C. § 103(a) as unpatentable over Evans, Dobson, and Abel.

9. Whether claims 43 and 44 are patentable over Dobson in view of Cronan and evidentiary reference Abel

Appellant challenges the rejection of claims 43 and 44, asserting Cronan's insert 34 (Cronan, Fig. 8) does not have rounded outer corners to match the socket driver (Cronan, Fig. 4). Br. 23. Appellant argues, "Even if both a socket driver and a socket insert had rounded inner corners, there is therefore nothing that would require the socket insert to have rounded outer corners to match the inner rounded corners of the socket driver." Br. 25.

This argument does not address the Examiner's rejection. The Examiner found that Cronan shows an insert in Figure 8 that has rounded outside corners. Answer 3–4, and 19. The Examiner found it obvious to modify Dobson in light of Cronan to provide Dobson's insert with Cronan's rounded inside corners in order to protect workpieces (such as hex head 16 (Dobson, Fig. 3)) from stress. Answer 3–4, 19.

The inventor's Declaration states that he believes that the outside of an insert need not be congruent with the driver in which it is received. Taylor Declaration filed May 18, 2012, para. 16. This declaration is not persuasive because it does not address the Examiner's finding that it would be obvious "to modify the invention of Dobson et al. with the plurality of insert adapters as taught by Cronan [and] . . . to modify the combination of

Dobson et al. and Cronan with inserts having rounded inner corners as taught by Dobson to reduce stress and provide a context surface with an enhanced mechanical advantage." Ans. 4. Appellant also argues that the Examiner must be relying on inherency. We find no such reliance. Because Cronan shows an insert with rounded outer corners to match the driver and Dobson teaches rounding the inner corners to reduce stress, we are not persuaded of error. In view of the foregoing, we sustain the rejection of claims 43 and 44 as unpatentable over Dobson, Cronan, and Abel.

10. Whether claims 43 and 44 are patentable over Dobson in view of Cronan and evidentiary reference Abel in further view of Evans

Appellant cites Figure 2 of Evans and asserts that the Examiner has not found that Evans teaches rounded outer corners. Br. 26. The Examiner responds that the embodiment of Figure 3 in Evans shows all outer corners to be rounded. Answer 19. Because we agree with the Examiner's finding concerning Evans' Figure 3, we are not persuaded the Examiner erred.

Next, Appellant urges that the one sharp outer corner in Evans prevents the Examiner's proposed combination from meeting the limitation that "**each** outer flat wall of the plurality [be] coupled with another outer flat wall of the plurality of outer flat walls **by a given one of the plurality of rounded outer corners**." Br. 26 (citing Br. 34–35 (Claims App.)). This argument is not persuasive because claims 43 and 44 do not require **all** flat walls to be coupled by rounded outer corners. So long as two or more flat walls are joined by rounded outer corners, this claim limitation is met.

Appellant next argues that there is no motivation to modify Dobson in view of Evans. Br. 27. Appellant asserts there is no teaching in Evans that

Evans' arcuate recesses "are designed for high torque applications." Br. 27. However, as the Examiner found, Dobson discloses avoiding sharp corners to prevent the corners from "contacting and engaging[] the head portion of the given nut or bolt to be driven." Final Act. 4. That Evans may have provided curved inserts for a different purpose does not undermine the Examiner's combination. The Supreme Court, in *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398 (2007), rejected the rigid requirement of a teaching or suggestion or motivation to combine known elements in order to show obviousness. *KSR*, 550 U.S. at 415. The Court noted that an obviousness analysis "need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ." *Id.* at 418. Moreover, the Court instructs us that "familiar items may have obvious uses beyond their primary purposes." *Id.* at 420.

> For over a half century, the Court has held that a "patent for a combination which only unites old elements with no change in their respective functions . . . obviously withdraws what already is known into the field of its monopoly and diminishes the resources available to skillful men." *Great Atlantic & Pacific Tea Co. v. Supermarket Equipment Corp.*, 340 U.S. 147, 152–153 (1950). This is a principal reason for declining to allow patents for what is obvious. The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.

Id. at 415–16. Thus, Appellant's argument is unconvincing.

Appellant next argues that because Evans does not state that its arcuate recess are designed for high torque applications, the functional description of the plurality of outer flat walls and plurality of outer rounded corners to "increase the ability . . . to receive . . . torque force" would not be

met by the proposed modification of Dobson in view of Cronan and Evans. Br. 27 (quoting Br. 34 (claim 35, Claims App.); claim 44 is similar). The Examiner finds that Dobson discloses rounded inner corners "to reduce stress." Ans. 19. Reducing stress in the driver and driven components would allow more torque to be transmitted between them without deforming either, as would be readily apparent to one of ordinary skill in the art. Accordingly, we are not persuaded the Examiner erred.

Appellant further relies on his own declaration and that of Dr. Taha. Br. 27. The reliance on these declarations is misplaced. The Appellant's second declaration (filed May 18, 2012) addresses the Evans reference, but not the combination proposed by the Examiner. Therefore it is not persuasive. Dr. Taha's declaration provides no explanation for his conclusion that there is no reason to modify Dobson with the claimed inserts and says nothing about Evans Dr. Taha's assertion that rounded corners are a high torque modification undermines Appellant's arguments about Evans because Evans shows rounded inside and outside corners. If rounded corners are in fact a high-torque adaptation as Dr. Taha states (Taha Dec. ¶ 3a.) , then Evans teaches the claimed structure as shown in Evans's Figure 3. Because the structure of Evans when combined with Dobson and Cronan as the Examiner found obvious, would achieve the claimed function, we are not persuaded that the Examiner erred. For these reasons we are not persuaded by Dr. Taha's unsupported conclusion, and we sustain the rejection of claims 43 and 44 as unpatentable over Dobson, Cronan, Abel, and Evans.

11. Whether claims 43 and 44 are patentable over Evans in view of Dobson and evidentiary reference Abel

Appellant first argues this rejection should be reversed because Evans does not teach "**each** outer flat wall of the plurality [of outer flat walls] being coupled with another outer flat wall of the plurality of outer flat walls **by a given one of the plurality of rounded outer corners**." Br. 28. We have already addressed Appellant's effort to read "each of the plurality of []walls" as "all the walls," and find it not persuasive. Br. 26.

Appellant next argues that Evans modified in view of Dobson fails to show "'rounded outer corners configured to increase the ability of the plurality of hollow-shaped socket insert adapters to receive . . . torque force'. . . . because Evans is not directed at achieving high torque." Br. 28. No new argument is offered to support this conclusion, and the Examiner found that "the insert of the combination applied also [would] have rounded outer corners which would also meet the narrative functional language of increase the ability to receive and transfer the force." Ans. 18. Moreover, we have already found, above, that claim 19 and claim 29 are not limited to any particular torque. Accordingly, on the record presented we are not persuaded of Examiner error.

Appellant next argues that there is no motivation to modify Evans in view of Dobson because the arcuate recesses in Evans are intended for "reverse slippage of the wrench head," citing Evans 3:62–65. Br. 28. We have already addressed the issue of motivation to combine prior art teachings as illuminated by the *KSR* decision. We refer back to that discussion and find no error in the Examiner's modification of Evans in view of Dobson.

Appellant contends that the inserts of Evans are unsuitable for high torque work, and therefore that the combination of Evans and Dobson does not render claims 43 and 44 obvious. Br. 28. As we found above, the claims are not limited to any particular torque, and therefore we find this argument not persuasive.

Finally, Appellant complains the Examiner has not explained how the modification of Evans inserts "to rounded outer corners that are configured for high type torque work would still be consistent with Evans design goals of [sic] "allow slippage of the wrench head 14." Br. 29 (citing Evans 3:63–65). We have reviewed all the evidence, and we find the combination relied on by the Examiner compliant with the requirements of *KSR*. "[I]t is not necessary that the inventions of the references be physically combinable to render obvious the invention under review." *In re Sneed*, 710 F.2d 1544, 1550 (Fed. Cir. 1983). The relevant inquiry is whether the claimed subject matter would have been obvious to those of ordinary skill in the art in light of the *combined teachings* of those references. *See In re Keller*, 642 F.2d 413, 425 (CCPA 1981). Appellant has not persuaded us of error, and we sustain the rejection of claims 43 and 44 as unpatentable over Evans, Dobson, and Abel.

DECISION

For the above reasons, the Examiner's adverse decision rejecting claims 19–23, 25–32, 34–38, 40, 43 and 44 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED